

**BILL #** SB 1036

**SPONSOR:** Waring

**PREPARED BY:** Martin Lorenzo

**TITLE:** consecutive sentencing; criminal offenses

**STATUS:** Senate Engrossed

## FISCAL ANALYSIS

### Description

SB 1036 requires an additional sentence imposed by the court resulting from a non-felony (misdemeanor or petty) offense committed by an individual while under the jurisdiction of the Department of Corrections (ADC), to run consecutively to the original sentence. Currently, the consecutive term is applied to additional sentences resulting only from felony offenses.

### Estimated Impact

The bill is not anticipated to result in an ADC cost as the department does not incarcerate individuals convicted of non-felony offenses. As a result, after completing their initial term of incarceration in prison, the offenders would be referred to county jails or probation departments to serve their sentence for the non-felony offense. Therefore, the bill may result in additional costs if it increases the population in county jails and/or probation caseloads. These additional costs would be incurred by the counties in the event the individual is sentenced to jail, while the costs would be shared by the state and local governments if a term of probation is imposed.

In addition, the bill may result in increased revenues to state and local governments in the event the non-felony offenses are prosecuted and result in additional revenues from fines, fees, and surcharges.

Due to a lack of data, the magnitude of the impact cannot be determined at this time. To estimate the fiscal impact, we have requested ADC indicate how many individuals under their jurisdiction commit non-felony offenses and would receive new sentences imposed by the court if they were all charged and convicted. To date, we have not received this information.

### Analysis

A consecutive sentence is a sentence in which the period of imprisonment equals the sum of all the sentences an individual receives. Currently, A.R.S. §13-708 only requires consecutive sentencing if; 1) multiple sentences of imprisonment are imposed on a person at the same time (unless the court expressly directs otherwise), or 2) a felony offense is committed by an individual while they are in ADC custody and the offense results in a term of imprisonment imposed by the court.

Under the proposal, the consecutive sentence requirement would be expanded to also include an additional term of imprisonment imposed by the court resulting from non-felony offenses committed by individuals while under the jurisdiction of ADC. Under the bill, the department would not be required to refer the individual for prosecution for these offenses.

Per A.R.S. §13-707 and A.R.S. §13-802, misdemeanor offenses carry terms of up to 6 months in jail and fines of up to \$2,500. The actual term of incarceration and assessed fine is determined by the court and is dependent upon whether it is a class 1, 2 or 3 of the misdemeanor, or a petty offense.

If sentenced to probation, the state and counties (excluding Maricopa County) typically share the costs of adult probation, which includes standard and intensive programs. For the intensive programs, the state pays 100% of the cost (although the counties may provide offices and other support services), while for the standard programs and treatment services, the state predominantly pays for the cost of additional probation officers. Adult Probation Services funding is based on statutory probation officer to probationer caseload ratios. In the event the bill results in increased probation caseloads, additional costs could be incurred if additional adult probation officers are needed.

The revenues generated by the bill from fines, fees, and surcharges would be distributed to both state and local governments. While the base fine amount is retained in its entirety by local governments, the state and local governments would share in the additional 84% surcharge and \$10 fee added onto the initial fine.

### **Local Government Impact**

As indicated above, the fiscal impact of SB 1036 cannot be determined at this time due to a lack of data. However, the bill may result in an additional cost to local governments if the offenders committing non-felony offenses while in ADC custody were sentenced to jail or probation. The cost of incarceration per offender, per day in county jail varies by county and ranges from approximately \$45.00 (Pinal) to \$97.98 (Navajo). Additional costs resulting from any term of probation would generally be incurred by the state, however, because Maricopa County funds the entire cost of their probation program they would incur any additional costs in that county. A portion of these costs however, may be offset by the revenue received from the base fine and the local government share of the 84% surcharge and \$10 fee.

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